

1 DAVID E. KLEINFELD (SBN 110734)
2 dkleinfeld@foley.com
3 FOLEY & LARDNER LLP
4 11250 El Camino Real, Suite 200
5 San Diego, California 92130
6 Tel: 858.847.6700
7 Fax: 858.792.6773

8 ROBERT S. WEISBEIN (pro hac vice)
9 rweisbein@foley.com
10 FOLEY & LARDNER LLP
11 90 Park Avenue
12 New York, New York 10016-1314
13 Tel: 212.682.7474
14 Fax: 212.687.2329

15 Attorneys for Defendants Sara Lee Corporation,
16 Sara Lee Bakery Group, Inc., and
17 Earthgrains Baking Companies, Inc.

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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

BBU, INC., BIMBO BAKERIES USA, INC.,
ARNOLD PRODUCTS, INC., ARNOLD
SALES COMPANY, INC., and ARNOLD
FOODS COMPANY, INC.,

Plaintiffs,

v.

SARA LEE CORPORATION, SARA LEE
BAKERY GROUP, INC. EARTHGRAINS
BAKING COMPANIES, INC., and DOES 1-
10, inclusive,

Defendants.

Case No: 09-CV-1787-DMS (RBB)

**DECLARATION OF ROBERT WEISBEIN
IN SUPPORT OF DEFENDANTS'
OPPOSITION TO PLAINTIFFS' MOTION
FOR PRELIMINARY INJUNCTION**

Judge: Hon. Dana M. Sabraw
Hearing Date: September 11, 2009
Time: 1:30 p.m.
Courtroom: 10

1 **DECLARATION OF ROBERT WEISBEIN IN SUPPORT OF DEFENDANTS'**
2 **OPPOSITION TO PLAINTIFFS' MOTION FOR PRELIMINARY INJUNCTION**

3 I, Robert Weisbein, declare as follows:

4 1. I am an attorney with the law firm of Foley & Lardner LLP, counsel of record for
5 Defendants Sara Lee Corporation, Sara Lee Bakery Group, Inc., EarthGrains Baking Companies,
6 Inc. (collectively "Sara Lee") in this matter adverse to Plaintiffs BBU, Inc., Bimbo Bakeries
7 USA, Inc., Arnold Products, Inc., Arnold Sales Company, Inc., and Arnold Foods Company, Inc.
8 (collectively "Arnold"). I make this declaration based on my own personal knowledge. I could
9 and would competently testify thereto if called as a witness in this matter.

10 2. Having read Arnold's Complaint and the demand letter dated August 17, 2009, I
11 called counsel for Arnold, Lisa Martens, on the morning of August 20, 2009. During the course
12 of our conversation I informed Ms. Martens that Sara Lee was not using the phrase "Sandwich
13 Thins" on the EARTHGRAINS product package in dispute or on any of the consumer
14 advertising and promotional materials, but only the term "Thins."

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16 I declare under the penalty of perjury that the foregoing is true and correct.

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18 Dated: August 31, 2009



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Robert Weisbein

CERTIFICATE OF SERVICE

2 The undersigned hereby certifies that a true and correct copy of the above and foregoing
3 documents has been served on August 31, 2009 to all counsel of record who are deemed to have
4 consented to electronic service via the Court's CM/ECF system per Civil Local Rule 5.4. Any
5 other counsel of record will be served by electronic mail, first class mail, facsimile and/or
6 overnight delivery.

/s/
David E. Kleinfeld